

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**  
**Before the Director of the Department of Insurance and Financial Services**

**In the matter of:**

**MI Rehab Solutions LLC**  
**Petitioner**

**File No. 21-1746**

**v**

**Auto Club Insurance Association**  
**Respondent**

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**Issued and entered**  
**this 3<sup>rd</sup> day of February 2022**  
**by Sarah Wohlford**  
**Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On November 18, 2021, MI Rehab Solutions LLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Auto Club Insurance Association (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on August 10, 11, and 20, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 15, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 15, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 29, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 18, 2022.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for therapeutic procedures and activities and related unusual travel rendered on April 27, 28, and 30, 2021, and July 13, 15, and 29, 2021. The Current Procedural Terminology (CPT) codes at issue include 97116, 97530, 97112, 97110, 97542, and 99082, which are described as gait training, functional performance activities, neuromuscular reeducation, therapeutic exercise, wheelchair management, and unusual travel, respectively.

In its *Explanation of Benefits*, the Respondent referenced American College of Occupational and Environmental Medicine (ACOEM) guidelines for physical therapy for individuals with traumatic brain injury (TBI) and stated that the treatment exceeds guideline recommendations. The Respondent further noted that the Petitioner's progress notes lacked objective findings to support functional improvement gained from treatment.

With its appeal request, the Petitioner submitted supporting documentation which stated that the injured person was involved in a motor vehicle accident (MVA) in February of 1988 and sustained a diffuse TBI. The Petitioner explained that the injured person lived at a rehabilitation and nursing center "for approximately 30 years" until he transitioned home in June of 2019. The Petitioner stated that the injured person's first round of treatment began in November of 2020 for physical therapy, in conjunction with other therapeutic services, which addressed strength, range of motion, sitting and standing balance, bed mobility, and transfers. The Petitioner further stated that the injured person's home/community-based physical therapy plan of care was 2 to 3 times per week for 3 to 6 months, during which functional improvements were noted. The Petitioner indicated that the plan of care was updated in April of 2021, with support from the injured person's physician, and that improvements from treatment were evident.

The Petitioner's request for an appeal further stated:

[The injured person] consistently participated in and attended therapy sessions throughout his admission to MI Rehab Solutions, as medically tolerated/ appropriate ... [The injured person] has encountered barriers to progress, including delays in accessing equipment/supports recommended and prescribed by physician, while awaiting approval from [the Respondent], thus prolonging need for skilled [physical therapy (PT)] services... Due to injuries sustained in MVA, related impairments [and] sequelae, [the injured person's] rehabilitation course of care has not been typical/does not fall within expected/recommended treatment guidelines of ODG and ACOEM PT guidelines...based on severity of TBI, and medical complexities, including aging with a TBI.

In its reply, the Respondent reaffirmed its position and referenced ACOEM guidelines for TBI disorder for subacute, chronic severe or moderately severe TBI patients with functional physical deficits. The Respondent noted that "over 8 weeks of physical therapy treatment sessions have been provided since 11/25/2020" and that the treatment exceeds ACOEM and Official disability guidelines for quantity.

### III. ANALYSIS

#### Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was supported on the dates of service at issue for the therapeutic procedures and activities based on medically accepted standards. However, the IRO reviewer also concluded that the Petitioner's unusual travel was not supported on the dates of service at issue based on medically accepted standards.

The IRO reviewer is a physician actively practicing and board-certified in physical medicine and rehabilitation. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on the American Academy of Physical Medicine and Rehabilitation (AAPMR) guidelines and American Physical Therapy Association (APTA) guidelines for management of severe TBI, along with medical literature relating to TBI for its recommendation.

The IRO reviewer noted that the therapy in question was denied by the Respondent due to the therapy being provided in the injured person's home, which the Respondent believed to be outside the scope of the injured person's condition or needs. However, the IRO reviewer opined:

[I]t is widely accepted by the governing board of the American Academy of Physical Medicine and Rehabilitation (AAPMR) that in a TBI, chronic, lifelong intermittent therapy will be needed, and occasionally will also be necessary when the [injured person] is non-ambulatory, as in [the injured person's] clinical scenario.

The IRO reviewer explained that "a brain injury event will require regular therapy to maximize independence in both the physical and cognitive domains" and noted that the treatment goal is to make the injured person "functional" at his family member's home. The IRO reviewer further stated:

Besides the physical burden necessary to transport [the injured person], the goals also change when the injured person becomes a moderate to maximum assist for activities such as transfers, increased functional mobility, and functional tasks...Thus, while billing for the [Petitioner's] travel is not reimbursable, the

therapy required within the [injured person's] home on [the dates of service at issue] is a realistic and functional goal and was medically necessary.

The IRO reviewer recommended that the Director reverse, in part, the Respondent's determination that the therapeutic procedures and activities and related unusual travel provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

#### IV. ORDER


The Director reverses, in part, the Respondent's determinations dated August 10, 11, and 20, 2021.

For dates of service April 27, 28, and 30, 2021, the Petitioner is entitled to payment in the full amount billed, except for procedure code 99082 for unusual travel, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). For dates of service July 13, 15, and 29, 2021, the Petitioner is entitled to reimbursement in the amount payable, except for procedure code 99082 for unusual travel, under MCL 500.3157 for the treatment on the dates of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox  
Director  
For the Director:

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford